

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

BBB Holdings, LLC
Appellant,

v.

Decatur County Board of Review,
Appellee.

ORDER

Docket No. 13-27-0259
Parcel No. 07.32.175.017

On March 18, 2014, the above-captioned appeal came on for a telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant BBB Holdings, LLC was represented by attorney Craig S. Shannon of Grefe & Sidney, PLC, and submitted evidence in support of its appeal. County Attorney Lisa Hynden Jeanes represented the Decatur County Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

BBB Holdings, LLC appeals from the Decatur County Board of Review decision reassessing its property located at 803 SW Lorraine, Leon, Iowa. The real estate was classified as industrial on the initial assessment of January 1, 2013, and valued at \$450,000, representing \$85,000 in land value and \$365,000 in improvement value.

BBB Holdings protested to the Board of Review on the ground the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). It requested an assessed value of \$355,000. The Board of Review denied the petition. BBB Holdings appealed to this Board reasserting its claim and sought the same relief.

According to the property record card, the improvements consist of three, one-story buildings totaling 195,604 square-feet of gross building area. Building #1 is a 39,204 square-foot brick and concrete building built in 1967. Building #2 is a 22,400 square-foot metal and steel building built in 1979. It includes 400 square feet of finished office and mezzanine. Building #3 is a 134,000 square-foot metal and steel building built in 1984. It includes 3419 square feet of interior finish. The property is improved by 11,370 square feet of concrete paving, an 800 square-foot deck, and yard fencing. The improvements are situated on a 10-acre site.

The property record card in the certified record is dated December 1994 and largely reflects the original 1995 assessment without much updating. It does not appear to be up-to-date relative to the 2013 assessment. It shows the property was assessed at \$2,010,000 in 2011, and reassessed at \$450,000 in 2012. There is no explanation on the property record card for the significant decrease and the decline does not appear to be reflected in any of the calculations used to value the property. It appears the Assessor applied a 30% economic obsolescence adjustment and a 30% physical depreciation adjustment to the improvements since the original 1995 assessment. However, there is no further explanation for the adjustments.

BBB Holdings contends the April 2012 purchase price of \$355,000 is the best evidence of the subject property's fair market value. (Exhibits 1 & 2). It reports the property was listed on the open market for nearly two years by a commercial real estate broker, without offers, before it was purchased. The property was auctioned by a professional auction and real estate services company with a starting price of \$150,000 for two parcels. (Exhibit 4). It reports twenty pre-qualified bidders attended the auction and BBB Holdings was the winning bidder. (Exhibit 5).

BBB Holdings alleges the purchase was an arm's-length transaction and represents fair market value. It argues the purchase price needs to be taken into consideration in arriving at a property's fair market value under the mandates of Iowa Code section 441.21(1)(b)(1). BBB Holdings also contends

the depressed economic conditions in Decatur County, reflected in its increased unemployment rate shows the subject property's value could not have appreciated. (Exhibit 3). BBB Holdings reports there are no comparable sale properties in the county for comparison.

BBB Holdings did not call any witnesses at hearing.

Assessor Jim Fleming testified on behalf of the Board of Review. According to Fleming, the previous owner operated a clothing factory at the site, moved the operation to Mexico, and left the property vacant. He believes the auction reflected duress because there was no market for a building of that size, 4.49-acres under roof, and the real estate taxes were high. He reported the subject property was originally assessed by the Iowa Department of Revenue in 1995 using the *Iowa Real Property Appraisal Manual* as the State assessed all industrial properties at that time. Fleming testified there were no comparable sale properties in Decatur County and the 2012 reduction was somewhat of a "guess." There was no indication a recognized assessment method was used to arrive at BBB Holdings' current assessment. We are critical that the only support available for the current assessment was an almost twenty-year-old Iowa Department of Revenue assessment that was modified based on mere speculation.

Board of Review member Sherri Adams testified she personally toured the building in 2012. Adams reports there are no comparable properties in the county. Although Adams sells real estate in the county, she is not familiar with this type of property. She describes the size as overwhelming and reports the building was in disrepair. Adams voted to lower the assessment in 2012, and since it had been reduced then, voted to deny the 2013 protest. In her opinion, the assessment is "probably where it should be."

John Dunsdon of the Decatur County Development Corporation testified on behalf of the Board of Review. He commented on the assessed values of two similar properties in Wayne and Union Counties. We do not find this comparison relevant because he compared assessments in different

taxing jurisdictions, which is not instructive on the property's fair market value by the sales comparison approach. He was unaware of any comparable sales in Decatur County. Dunsdon was unfamiliar with the property or the auction sale circumstances. Further, he stated he did not have valuation capabilities.

Ultimately, BBB Holdings did not present sufficient evidence to support its claim of over-assessment or to support its value opinion. While the normal, arm's length sale price of a property is considered as evidence of its fair market value, an auction sale or a sale of a building vacant for more than a year may not be considered a normal, arm's-length transaction and may indicate a distress sale condition. § 441.21(1)(b); *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Without adjustment to remove these possible distorting factors, we are hesitant to rely on the sale price alone. § 441.21(1)(b). Further, BBB Holdings did not provide any supporting evidence such as a comprehensive market analysis, appraisal, comparable sales, or other indication of the property's value.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, residential, commercial, and industrial property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(a)(2). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley*, 549 N.W.2d 289. Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Id.* at 290. Section 441.21(1)(b) further states the sale prices of properties in abnormal transactions not reflecting market value must not be taken into account, or must be adjusted to eliminate the effect of factors which distort market value. If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

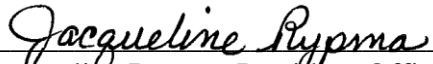
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

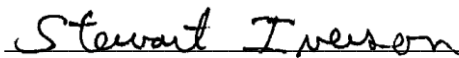
While BBB Holdings relies on its 2012 purchase price to establish the subject property's fair market value, an auction sale or a vacant building sale may indicate distressed conditions and the sale may be considered an abnormal transaction that requires adjustment. § 441.21(1)(b). Even if the sale was considered normal, the sales price alone does not conclusively establish the subject's market value

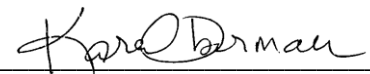
based on Iowa case law. *Riley*, 549 N.W.2d at 290. Without adjustment to account for the potential distorting effects of the sales transaction, we are reluctant to rely solely on the purchase price alone as the property's value indicator. We note both parties acknowledged there were no comparable sales in the county; however, neither party submitted evidence such as a comprehensive market analysis or an appraisal using sales from a larger market area, an income approach to value, or updated cost approach. As a result, we find BBB Holdings failed to meet its burden of showing by a preponderance of the evidence that its property was assessed for more than the value authorized by law as of January 1, 2013.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of BBB Holdings, LLC's property located at 803 SW Lorraine, Leon, Iowa, of \$450,000 is affirmed.

Dated this 28th day of March, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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